

This section of the EIR describes the existing land uses at the project site and in the vicinity; discusses the proposed project within the context of the policies included in the *City of Morgan Hill General Plan* and the *City of Morgan Hill Planning and Zoning Codes*. Potential impacts focus on adopted environmental plans and policies and compatibility of future commercial uses with surrounding agricultural and residential land use patterns.

### 3.9.1 ENVIRONMENTAL SETTING

#### REGIONAL SETTING

The City of Morgan Hill is located in the southern portion of the County of Santa Clara, approximately 12 miles south of the City of San José and ten miles north of the City of Gilroy. The southern Santa Clara Valley is approximately four miles wide with predominantly flat terrain. Important visual features include the surrounding Santa Cruz Mountain Range to the west and the Diablo Mountain Range to the east. The City of Morgan Hill has grown into a mid-sized city with a small downtown area and high-quality residential neighborhoods. Open hillside areas, numerous creeks, and surrounding agriculture create a feeling of rural open space within the city.

Of the approximately 21,700 acres within the City's sphere of influence, less than 3,400 are developed with residential, commercial, or industrial uses. In 1996, the City Council adopted a long-term Urban Growth Boundary (UGB), which differentiates land within the Sphere of Influence intended for future urbanization from land intended to remain rural and unincorporated for the next 20 years. The *City of Morgan Hill General Plan* provides for an additional 3,400 acres of urban development within the urban growth boundary. According to the *City of Morgan Hill General Plan*, the 'Commercial' designation accounts for approximately 454 acres primarily along the arterial roadways west of U.S. Highway 101 and along the eastern freeway frontage. This land use designation is intended to allow for a wide range of retail businesses, office uses, and professional services. The largest concentrations are found along Monterey Road and at the freeway interchanges, where retail stores are emphasized.

#### SITE SETTING AND EXISTING USES

The 66.49-acre project site consists of five irregular-shaped parcels under ownership by three separate landowners: the Millerd-Low property (Assessors Parcel Number: 728-37-001), Guglielmo property (Assessors Parcel Numbers: 728-37-002, -005, -007); and Sullivan property (Assessor Parcel Number 728-37-004). Improvements on the Millerd-Low property consists of a 12-acre parcel located at the northeast corner of the project site. The project site is occupied by a horse boarding facility, two residences, and seven out-buildings including a garage, tack rooms, a pump house, a restroom, and a hay barn. The remainder of this parcel consists of fenced pastureland. The Guglielmo property consists of

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three irregularly-shaped parcels totaling 38-acres in the central and southern portions of the project site. Existing improvements include a small vineyard located in the northern portion of the property and row crops in the southern part of the property. A residence and associated barn and pump house are located in the central area of the property. The Sullivan property comprises 16.5 acres located in the western portion of the site. This parcel is being dry-farmed for wheat and contains no structures or other site improvements.

### Surrounding Land Uses

The project site is located within the city limits of Morgan Hill at the edge of the UGB, which borders the project site to the north. Surrounding land uses include vacant land planned for commercial uses and the De Paul Health Center (formerly the Saint Louise Hospital) located to the south; unincorporated County land currently in agricultural use located within the City's sphere of influence and vacant land located within the city limits designated 'Single-Family Medium' in the *City of Morgan Hill General Plan* located to the east; unincorporated County land, currently in agricultural use, located within the City's sphere of influence designated 'Rural County' in the *City of Morgan Hill General Plan* located to the north; and U.S. Highway 101 and the SCVWD drainage channel located west of the project site. Although the project site is primarily rural in nature, the area west of the U.S. Highway 101/Cochrane Road interchange is developed primarily with commercial uses, including the Cochrane Plaza shopping center located at the southwest quadrant of this intersection, and a Chevron Station, two hotels, two vacant restaurant pads, and the Madrone Business park located at the northwest quadrant of the intersection. Surrounding land uses are shown in the aerial photograph presented in **Figure 2-7** in Section 2, Project Description of this EIR.

### 3.9.2 REGULATORY SETTING

The purpose of this section is to evaluate the proposed project for land use consistency with relevant adopted plans and policies. These include policies of the *City of Morgan Hill General Plan* and the *City of Morgan Hill Planning and Zoning Codes*.

#### CITY OF MORGAN HILL LAND USE POLICY

The City of Morgan Hill uses the General Plan, Planning and Zoning Codes and permit process to regulate land development within the City's incorporated boundaries. The City may exercise its rights in the sphere of influence, which include annexation and pre-zoning, but is not required to do so.

The City of Morgan Hill regulates land development within the City through the permitting process. The Morgan Hill Community Development Department (Planning and Building Divisions) issues and monitors all appropriate permits for development within the city

limits. Approval of the proposed project including the proposed zoning amendment, tentative map, conditional use permits, development agreement, tree removal, and general plan amendment application is subject to review by the Planning Commission, which provides a recommendation on the proposed action to the City Council. The Architectural Review Board is responsible for architectural and site review of the proposed project.

The City's Residential Development Control System (RDCS) regulates residential development within the City's incorporated boundaries. The RDCS regulates growth by limiting the number of new homes approved each year, and directs that the City shall not apply to LAFCO to expand the City's Urban Service Area (except for projects determined by LAFCO to be "desirable infill") until less than a five year supply of buildable residential land remains, nor shall the City grant new extensions of urban services for residents beyond the Urban Service Area. The Planning and Zoning Code allows some exceptions in cases where denial of services would have a direct adverse impact on public health and safety.

#### **City of Morgan Hill General Plan**

The project site has a General Plan designation of 'Commercial' in the *City of Morgan Hill General Plan* and designates the project site as the location of a sub-regional commercial site. According to the *City of Morgan Hill General Plan*, most of the roughly 550 acres designated for commercial development lie along Monterey Road and U.S. Highway 101. About half of that land is vacant. According to the *City of Morgan Hill General Plan*, market projections indicate that during the next 20 years Morgan Hill will need another major grocery store and could support centers for sub-regional and tourist-oriented uses, which together could utilize 50 or more acres. It is important in retaining the city's identity to ensure that commercial uses are located where they can best serve target markets and least impact residential neighborhoods (City of Morgan Hill 2004).

According to the *City of Morgan Hill General Plan*, the General Plan concentrates retail uses on Monterey Road around the Dunne and Tennant Avenue intersections, where higher traffic volumes can be better accommodated. Encouraging and maintaining non-retail uses along the intervening stretches is intended to help limit "strip commercial" appearance, reduce the potential for unacceptable traffic conditions, and contribute to the vitality of existing shopping centers. Hotel and other traveler and regional-servicing commercial uses are proposed to be located along the U.S. Highway 101 corridor. An additional grocery store is expected to be built in the northern part of Morgan Hill to serve the growing population in the area (City of Morgan Hill 2004).

The following policies in the *City of Morgan Hill General Plan* are applicable to the proposed project:

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### Community Development

- Goal 9** Sufficient and concentrated commercial uses.
- Policy 9a** Encourage a variety of commercial and office development to meet the needs of city residents.
- Policy 9b** Ensure the viability of downtown and other recognized shopping areas and discourage isolated and sprawling commercial activities along major roads.
- Policy 9c** Encourage retail sales use at major intersections as the focus of clustered commercial development.
- Policy 9g** Plan for a future grocery east of 101 along Cochrane Road.
- Goal 10** Sub-regional retail at freeway interchanges.
- Policy 10a** Encourage tourist-oriented and sub-regional retail uses at the northeast Cochrane and southeast Tennant freeway interchanges.
- Policy 10b** Limit repetitive ancillary commercial uses such as fast-food restaurants and service stations, on lands around interchanges.
- Policy 10c** Zone all commercial areas at freeway interchanges PUD, to ensure they develop in a coordinated manner addressing such issues as design, signage and circulation.
- Goal 12** A visually attractive urban environment.
- Policy 12b** Discourage the use of “franchise architecture.”
- Policy 12c** Improve the appearance of commercial developments by minimizing the amount of parking fronting the street.
- Goal 14** Distinct, attractive gateways to the community.
- Policy 14a** Enhance the visual integrity of the gateways to the city, such as the Madrone area north of Cochrane Road, the Cochrane Road/Monterey Road intersection, Monterey Road south of Watsonville Road, the Cochrane, Dunne, and Tennant freeway intersections.

### Economic Development

- Goal 1** A strong, stable and diverse economic base.

- Policy 1a** Designate sufficient areas of land to promote the development of a balanced community containing adequate jobs, retail services, and commercial activity.
- Policy 1b** Encourage retention and expansion of existing businesses, and attract new businesses that: generate revenue to the City General Fund (such as retail and point-of-sale manufacturing); help provide greater revenue to the City General Fund (such as retail and point-of-sale manufacturing); help provide greater fiscal strength and stability in the City; add diversity to the local economy; stimulate other businesses to develop in the area; augment or provide a service/amenity presently needed or lacking in the community; offer higher-paying quality jobs for local residents.
- Policy 1c** Promote the overlap between visitor and resident serving uses and encouraging retail goods and services that serve both market segments.
- Policy 1d** Promote businesses with manageable impacts on the City's water, storm water, and wastewater system.

### City of Morgan Hill Planning and Zoning Codes

The project site has a zoning designation of Planned Unit Development (PUD) Highway Commercial (HC) `PUD (HC)`. As set forth in Section 18.30.010 of the *City of Morgan Hill Planning and Zoning Codes*, the purpose of a PUD is to: "...facilitate and promote coordination of design, access, use, and other features associated with development of multiple adjacent properties or single properties. The district is also intended to allow diversification in the relationship of various buildings, structures and open spaces in planned building groups, and the allowable height of the buildings and structures, while insuring substantial compliance to the district regulations and other provisions of the Planning and Zoning Codes. Adequate standards related to the public health, safety and general welfare shall be observed without unduly inhibiting the advantages of large-scale site planning for residential, commercial or industrial purposes." All commercial developments designated in a PUD are required to follow standards set in Chapter 18.30.090 Commercial Development Standards, of the *City of Morgan Hill Planning and Zoning Codes*. The Commercial development standards include, but are not limited to: architectural/site planning standards; easements; lighting; parking and circulation; and signage and displays.

Section 18.26.010 of the *City of Morgan Hill Planning and Zoning Codes* defines the Highway Commercial (HC) district as providing areas adjacent to the freeway that can accommodate highway and tourist oriented uses, and uses which require the high visibility of thoroughfare locations. Restaurants, wine tasting, retail uses (excluding grocery,

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supermarket and drug stores), motel and hotels, arts and crafts galleries, and motor vehicle sales and services are permitted uses in the Highway Commercial district.

Section 18.26.040 of the *City of Morgan Hill Planning and Zoning Codes* contains the site development standards for the 'HC' District. These standards include: minimum lot area of 20,000 square feet with a minimum lot width of 70 feet; minimum lot depth of 125 feet, and maximum building coverage of 40 percent; minimum setbacks include 40 feet in the front, and 20 feet in the rear unless located adjacent to U.S. Highway 101, whereby a minimum 30 foot setback is required. As part of the PUD process, the City Council can approve flexibility in the site development standards; the PUD will establish the zoning for the project site.

#### Design Review

The proposed project would be subject to design review as established in Section 18.74 of the *City of Morgan Municipal Code*. The purpose of Section 18.74, Design Review is to preserve and enhance the beauty and environmental amenities of the city by:

- Recognizing the interdependence of land values and aesthetics, and to provide a method by which the city may implement this interdependence to the community's benefit;
- Preserving and enhancing the natural beauties of the land and man-made environment, and the enjoyment thereof,
- Maintaining and improving the qualities of and relationships between individual buildings, structures and physical development in such a manner as to best contribute to the amenities and attractiveness of the city,
- Protecting and insuring the adequacy and usefulness of public and private developments as they relate to each other and the neighborhood area;
- Promoting and protecting the safety, convenience, comfort, prosperity and general welfare of the citizens of the city by:
- Stimulating creative design for individual buildings and structures, and other physical improvements,
- Encouraging the innovative use of materials, methods and techniques,
- Preserving balance and harmony within neighborhoods,

- Integrating the functions, appearance and locations of buildings and improvements so as to best achieve a balance between private prerogatives and preferences and the public interest and welfare.

The standards addressed in design review include, but are not limited to: harmony of design; design theme; site design standards; mechanical equipment and utilities; energy conservation; wall treatments; doors and windows; lighting; grading and drainage; and parking and landscaping. These standards are initially implemented through staff review of project applications. Ultimately the Architectural Review Board (ARB) reviews all proposals for future developments to assure conformance with these design standards.

### 3.9.3 IMPACTS AND MITIGATION MEASURES

#### STANDARDS OF SIGNIFICANCE

The following thresholds for measuring a project's environmental impacts are based on CEQA Guidelines and other performance standards recognized by the City of Morgan Hill. For the purposes of this EIR, impacts are considered significant if the following would result from implementation of the proposed project:

- Physically divides or disrupts an established community;
- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect; and/or
- Conflicts with any applicable habitat conservation plan or natural community conservation plan.

#### METHODOLOGY

The evaluation of potential land use impacts are based on field reconnaissance and several documents including the *City of Morgan Hill General Plan*, *City of Morgan Hill Planning and Zoning Codes*, and the applicant's project description.

#### PROJECT IMPACTS AND MITIGATION MEASURES

##### Disruption of an Established Community

**Impact 3.9-1**      The proposed project would not disrupt or divide an established community. Therefore, this impact is considered **less than significant**.

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The project site is located within the city limits of Morgan Hill at the border of the urban growth boundary (UGB), which borders the project site to the north. The UGB is an officially adopted and mapped line dividing land to be developed from land to be protected for natural or rural uses, including agriculture. The project site has a General Plan designation of 'Commercial' in the *City of Morgan Hill General Plan* and a zoning designation of 'PUD (HC)' in the *City of Morgan Hill Planning and Zoning Codes*. The *City of Morgan Hill General Plan* designates the project site as the location of a sub-regional commercial site. The project site has been designated for urban uses in the City of Morgan Hill General Plan since 1969.

As the project site is located at the northern boundary of the City of Morgan Hill, surrounding land uses are both urban and rural in nature. Surrounding land uses include vacant land planned for commercial uses and the De Paul Health Center (formerly the St. Louise Hospital) located south of the project site; unincorporated County land located within the City's sphere of influence and vacant land located within the city limits designated 'Single-Family Medium' in the *City of Morgan Hill General Plan* located east of the project site; unincorporated County land located within the City's sphere of influence designated 'Rural County' in the *City of Morgan Hill General Plan* located north of the project site; and U.S. Highway 101 and the SCVWD drainage channel located west of the project site. Although the project site is primarily rural in nature, the area west of the U.S. Highway 101/Cochrane Road interchange is developed primarily with commercial uses, including the Cochrane Plaza shopping center located at the southwest quadrant of this intersection, and a Chevron Station, two hotels, two vacant restaurant pads, and the Madrone Business Park located at the northwest quadrant of the intersection.

The project area is not considered a cohesive established community that will be divided by the proposed commercial uses. Therefore, the proposed project will not disrupt or divide an established community and the impact is considered **less than significant**.

#### **Conflicts with the Applicable Land Use Plan, Policy, or Regulations**

**Impact 3.9-2**      The proposed project would not conflict with existing policies adopted to avoid or mitigate environmental impact. This is considered a **less than significant impact**.

The proposed project includes a zoning amendment and general plan amendment (GPA) application to establish a precise development plan for an approximate 657,250 square foot shopping center. The proposed zoning amendment application would establish a precise development plan and development guidelines for the proposed project. The general plan amendment would provide for the relocation of a future collector street extending from Mission View Drive north of Cochrane Road instead of extending from De Paul Drive (formerly St. Louise Drive) as designated on the *City of Morgan Hill General Plan* map.



The proposed project meets the *City of Morgan Hill General Plan* goals and policies, which seek to encourage retail sales at major intersections, a sub-regional retail use at the northeast freeway interchange, and a variety of commercial uses to meet the needs of city residents. The proposed project would be subject to design review, which will ensure that the proposed project meets the General Plan goals and policies for high quality commercial development at the northern gateway to the City of Morgan Hill.

Throughout the EIR, the applicable General Plan goals and policies are listed in each of the individual topic areas. With the implementation of mitigation measures identified within this EIR, the proposed project would be consistent with applicable General Plan goals and policies.

Section 18.26.010 of the *City of Morgan Hill Planning and Zoning Codes* defines the 'HC' district as providing areas adjacent to the freeway that can accommodate highway and tourist oriented uses, and uses which require the high visibility of thoroughfare locations, such as the proposed project. The proposed zoning amendment application would establish a precise development plan and development guidelines for the proposed project. The proposed project would be required to undergo design review in compliance with Section 18.74, Design Review, of the *City of Morgan Hill Planning and Zoning Codes*. In summary, the proposed project would be consistent with the General Plan and zoning provisions applicable to the project site.

### **Conflicts with Applicable Habitat Conservation Plan**

The project site is not located within the boundaries of a habitat conservation plan. Therefore, **no impact** would occur.

### **Potential for Urban Decay Due to Secondary Economic Impacts**

**Impact 3.9-3a** The proposed project would construct a 657,250 square-foot retail center that would consist of the relocation and expansion of the 'Target' store (currently located at the Cochrane Plaza shopping center) and construction of over 530,000 square feet of additional retail, which could include a home improvement store, wholesale store or department store; retail shops; restaurants (sit-down and fast food); and a 63,200 square foot multi-plex cinema with up to 14 screens. These retail uses would compete with existing businesses in the City of Morgan Hill. This increased competition could potentially result in or contribute to closure of existing businesses in the City of Morgan Hill and there is a high likelihood that the Cochrane Plaza would be subject to a causal chain ultimately resulting in urban decay. This is considered a **significant impact**.

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### Background Discussion

Under CEQA, only direct and indirect physical effects of projects are to be considered in the preparation of an EIR. Section 15064(d) of the state CEQA Guidelines provides: ‘In evaluating the significance of the environmental effect of a project, the lead agency shall consider direct physical changes in the environment which is caused by and immediately related to the project.’ Section 15064(d)(3) further states: “An indirect physical impact is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable.” In addition, CEQA requires that a determination that a project may have a significant environmental effect must be based on substantial evidence (CEQA Guidelines §15064(f)).

With respect to secondary socioeconomic effects of projects, Section 15131(a) of the CEQA Guidelines states: “Economic and social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes.” In other words, economic and social changes are not, in themselves, considered under CEQA to be significant effects on the environment.

Since only physical effects are to be considered under CEQA, economic and social changes resulting from a project may be considered if they in turn produce changes in the physical environment. To fully satisfy the requirements of an EIR, an economic analysis must start with the economic impacts, but also follow the causal chain to assess the likelihood of new retail space causing long-term vacancies in existing retail space and ultimately leading to urban decay and physical deterioration of existing retail centers and nodes. In the words of *Bakersfield Citizens for Local Control v. City of Bakersfield, Panama 99 Properties LLC, and Castle & Cooke Commercial-CA, Inc.*, the analysis is required to assess whether a new retail development “could cause a ripple of store closures and consequent long-term vacancies that would eventually result in general deterioration and decay within and outside the market area” of the proposed development. Further, “[t]hese effects include, but are not limited to, physical decay and deterioration resulting from store closures in the same market area or in established areas of the community (i.e., the ‘traditional downtown area’) due to competitive pressures, followed by an inability to easily re-lease the vacated premises.” One concern is that large retailers that dominate sales in their merchandise lines “will displace older, smaller retail stores and shopping centers, leaving long-term vacancies that deteriorate and encourage graffiti and other unsightly conditions.” An EIR “must analyze the cumulative impacts resulting from construction and operation of the proposed shopping center in conjunction with all other past, present or reasonably

foreseeable retail projects that are or will be located within the proposed project's market area" and determine the likelihood that a project "individually and/or cumulatively, indirectly could trigger the downward spiral of retail closures and consequent long-term vacancies that ultimately result in decay." In light of the above, even if it could be shown that the proposed project would likely result in the failure of an existing competing business or businesses, the resulting building vacancy alone would not meet the above definition of blight. As such, a building vacancy alone would not meet the CEQA threshold of significance for a physical change to the environment. To cause a significant physical impact, other contributing factors would need to occur such as lack of effort on the part of property owners to maintain or improve their properties to a condition suitable for leasing, combined with the failure of surrounding businesses and physical deterioration of those properties. To reach a condition recognized as a physical impact under CEQA would require total neglect or abandonment of these properties by their owners for an extended period such that substantial physical deterioration, or urban decay, would ensue. As stated above, such an indirect physical impact must be a reasonably foreseeable result of the project, requiring a showing of cause and effect, with the finding of such an impact supported by substantial evidence.

Although CEQA does not require analysis of economic impacts of the project, the following analysis is presented as supporting evidence for subsequent conclusions on the likelihood that the project would indirectly result in or contribute to potentially significant adverse physical changes due to negative economic effects on businesses in the City of Morgan Hill.

#### Retail Market Impact Analysis

In order to determine the potential economic impacts of the proposed project upon existing competing businesses in the City of Morgan Hill and the larger market area, a retail market impact analysis was undertaken by Bay Area Economics (BAE). The BAE report is contained in Appendix I of this EIR, and its main findings and conclusions are discussed below.

The project applicant has expressed an interest in developing the proposed project as a "lifestyle center," with an emphasis on higher-end stores, dining, and entertainment, creating a destination retail experience that might draw shoppers and movie-goers from outside the City of Morgan Hill.

The proposed project represents a significant increase in the amount of retail space in Morgan Hill, with a center size larger than any of the existing centers in the City. The most apparent immediate impact will be the creation of a large vacant space in the Cochrane Plaza shopping center due to the relocation of Target to the proposed project. Among other retail categories, the opening of a new home improvement style store similar to but larger than Home Depot may lead to market saturation in Morgan Hill and the Target Trade Area, which does not have a sufficient customer base to support two such stores at industry average performance levels. The opening of a major multiplex will create overcapacity in

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both Morgan Hill and the Cinema Trade Area, with the impacts likely to be greatest in Morgan Hill. Additional restaurant retail might be supportable, and the overall performance at the local supermarkets is strong enough that another competitor might enter the market, especially if it has a more region-serving focus.

The impacts would be lessened to some degree if the proposed project is successfully positioned as a lifestyle center and serves a broader market area. However, market areas for the two largest users of the proposed project (general merchandise and home improvement) face significant competition outside Morgan Hill from existing and planned general merchandise stores and home improvement warehouses in the cities of Gilroy and San José. Movie theaters might draw from a larger area due to their convenient highway location and large number of offerings available due to the number of screens. However, the proposed project adds more screens than are supportable in a larger area, doubling the number of screens in the Cinema Trade Area.

The most obvious local impact will be at Cochrane Plaza, where the Target anchor will be relocating to the proposed project and vacating the center. The loss of Target is likely to lead to reduced traffic at the other stores in the center, many of which are complementary to the Target, offering similar apparel and household items. Some of these tenants may choose to move to the new center to remain close to the Target and the customer traffic it generates. The restaurants such as McDonald's in Cochrane Plaza will also face new nearby competition from restaurants at the proposed project, which is likely to capture some of their share of pass-by highway traffic looking for convenient dining or takeout even as it captures new pass-by traffic and regional business generated by a movie theater complex.

The Lawrence Oaks Center shopping center could be significantly affected if the proposed project includes a large home improvement store as planned. As discussed above, the local trade area is not capable of supporting two large home improvement stores performing at industry average sales levels. However, this center's two anchors, Safeway and Home Depot, are not particularly complementary and thus the loss of either is not likely to significantly affect the other. In fact, the Safeway and an adjacent Longs Drugs continued to operate successfully after the Kmart previously occupying the Home Depot space closed. Furthermore, since this center is not as focused as Cochrane Plaza, re-tenanting may not prove as difficult, with one possibility being an office supply store, a category for which Morgan Hill shows significant additional capturable sales.

The Tennant Station shopping center could ultimately see the loss of the Cinelux movie theater complex if the new multiplex opens as proposed, since the Cinema Trade Area's population base does not support additional screens. The major anchors, Safeway and Rosso's Furniture, however, report strong sales, and the loss of a movie theater would not

likely impact their sales significantly; nor are these two anchors at risk from the proposed project.

The analysis indicates that the other retail nodes in Morgan Hill are not likely to lose major tenants or stores and thus will not be impacted in a way that might lead to urban decay or physical deterioration. With respect to downtown, the proposed project serves a different niche for both consumers and retailers in Morgan Hill, and as such, should not see major impacts from the proposed project.

### **Urban Decay Analysis**

The analysis considered the potential for urban decay and physical deterioration for each of the competing Morgan Hill retail nodes, taking into account the impacts of the proposed project and possible cumulative impacts due to other retail development in Morgan Hill, South San José, and Gilroy. No large anchor retail spaces are currently vacant in Morgan Hill and the existing centers show no current evidence of urban decay or physical deterioration resulting from vacancy, deferred maintenance, or disinvestment. None of the existing centers could be seen as being at risk of urban decay if the proposed project is not built.

The proposed project would lead to the loss of one of two large anchors at Cochrane Plaza. This center and its other large anchor, Mervyn's, face strong new competition from Gilroy Crossing and its new Target and Kohl's. Mervyn's faces an uncertain future following its sale in 2004 by the Target Corporation, with some indications that the underlying value is in its real estate holdings rather than in its operations. At this time, however, the new ownership has continued with existing management and has not announced any major changes such as store closures. A representative of Cochrane Plaza indicated that other stores in the center are faring poorly even with the existing Target in place, with prospective tenants for a vacant space reportedly requesting a cancellation clause if the Target closes. Other tenants may close entirely or relocate to the proposed project seeking the continued synergy of locating near a Target. Cochrane Plaza is further constrained by land use regulations that do not allow re-tenanting of the Target space as a grocery store without voter approval. Re-leasing of the Target space might also require a subdivision or redevelopment of the existing store, as the market analysis indicates no support for a space of that size for any category of retail outlet. One possible reuse for at least part of the space is as an office supply store; the analysis indicates support for a sizable store in this category in Morgan Hill. However, this use does not complement the remaining tenant base nearly as well as Target, would not fill the entire vacant Target space, and might be more suitable for another location in Morgan Hill; if the proposed project seeks additional tenants outside the lifestyle retail niche, an office supply store could even be located there. Another factor to consider is the multiple ownership of this center; any attempt to redevelop the entire center must be approved by the separate owners of the vacated Target space (currently

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owned by Target), Mervyn's, and the owner of the remainder of the center. Given the lack of viable large-scale tenants for the Target space, the loss of synergy with the remaining tenants if the Target closes, and an uncertain future for Mervyn's, the center is likely to undergo secondary closures of smaller businesses. Therefore, Cochrane Plaza faces the possibility of entering a cycle leading to urban decay and physical deterioration resulting from long-term vacancies, secondary business closures, and the inability to re-tenant existing stores.

The actual potential for physical deterioration to occur will be dependent on the commitment from the current property owners to maintain the property, which will be made more challenging due to the multiple ownerships. Although it may be reasonable to assume that the owners would maintain the plaza in a condition suitable for re-tenanting, there is no evidence or indication that such upkeep would continue indefinitely in the face of long-term vacancies under oversaturated market conditions if the prospect of significant re-tenanting of the existing spaces is remote. Therefore, it is concluded that there is a high likelihood that the Cochrane Plaza would be subject to a causal chain ultimately resulting in urban decay. This is considered a **significant impact**.

#### Mitigation Measures

**MM 3.9-1** As a condition of approval for the proposed project, the Target Corporation will make a written commitment, using a mechanism such as a restriction or notice on their deed to the existing store property, to maintain their vacated existing store per the guidelines set out in the BAE report regarding abatement of physical decay and deterioration of buildings per the City of Morgan Hill Municipal Code. This maintenance will include but not be limited to prompt removal of trash and graffiti and upkeep of the vacant building to leasable standards for a modern community shopping center. This commitment will extend to successors in ownership if the Target Corporation sells the property prior to re-tenanting. This commitment will extend until a majority of the space in the vacant store is re-occupied for a period of at least 12 consecutive months.

**MM 3.9-2** As an additional measure to assure proper maintenance of the vacated store, the Target Corporation will provide the City of Morgan Hill with a façade easement on the existing Target space. The facade easement will make it easier for the City and its Redevelopment Agency to step in and clean up the site and lien the property for reimbursement, if needed. The easement language can establish the maintenance standards to be followed. For this property, the easement language should give the City of Morgan Hill the right to enter onto the property and perform any deferred maintenance thereon as may be necessary to keep the property in good condition and repair, if the Target Corporation or successor in ownership (the "owner")

does not perform such maintenance itself within a set period of time after receiving notice of the need for maintenance. Such notice shall identify each item of maintenance and repair required to restore the landscaping and exterior facade on the property to good condition and repair. All costs of maintenance performed by the City of Morgan Hill shall be paid directly by the owner or be reimbursed to the City by the owner. The owner's obligation to reimburse the City shall be secured by a lien encumbering the property, which lien shall be enforceable in accordance with the provisions of California Civil Code Section 2924 et seq., as amended. This façade easement will be granted for a period not to exceed five years, or until a majority of the space is re-occupied for a period of at least 12 consecutive months.

- MM 3.9-3** The Target Corporation shall provide the City of Morgan Hill with a written re-tenanting plan for the vacant store. Every six months until the majority of the space is leased to a tenant(s) with a lease commitment of at least 12 months, or sold to another independent party, the Target Corporation shall provide to the City of Morgan Hill a progress report on efforts to re-lease the vacant space. The Target Corporation shall not put restrictions on the types of retailers permitted, e.g., they will not refuse to lease to a Target competitor. Permitted activities and land uses shall be solely governed by the City of Morgan Hill General Plan and the *City of Morgan Hill Planning and Zoning Codes*.

Based on the analysis conducted by BAE, it cannot be stated with any degree of certainty that the mitigation measures would prevent urban decay in the Cochrane Plaza shopping center. Therefore, the proposed project would likely lead to a **significant and unavoidable impact** with respect to urban decay and physical deterioration at the Cochrane Plaza shopping center.

- Impact 3.9-3b** The proposed project would increase competition that could result in closure for major tenants in the Lawrence Oaks and Tennant Station shopping centers. This is considered a **potentially significant impact**.

In addition to potential closures at the Cochrane Plaza shopping center, based on the retail market impact analysis performed by BAE, there is a likelihood of closure for major tenants in Lawrence Oaks (Home Depot) and the Tennant Station (Cinelux theater complex) shopping centers. If the proposed project includes a home improvement center, it could result in market saturation in this retail sector, leading ultimately to closure of Home Depot at the Lawrence Oaks shopping center. However, Home Depot and its largest competitor, Lowe's, are currently in a phase of opening stores in proximity to one another to gather additional market share. Any consolidation and elimination of unprofitable stores may be several years away. The Lawrence Oaks shopping center survived the closure of the Kmart

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store as the other two anchor stores, Safeway and Longs Drugs are sustained by a customer base that was not driven by those going to the Home Depot store. As a result, the Lawrence Oaks shopping center is unlikely to enter a cycle of additional vacancy leading to urban decay, even if the Home Depot is closed in a future consolidation of stores by its parent company.

The main occupant at risk in Tennant Station is the Cinelux theatre complex, since the market area does not appear to be able to support additional screens in Morgan Hill. However, the two primary anchors of this center are a Safeway and a furniture store, neither of them at significant risk of closure due to the proposed project or other known future retail development. Additionally, the bowling alley is now slated for reopening later this year. This center has undergone major changes over the last several years, including the departure and reopening of Safeway, that indicate that vacant spaces will see reuse rather than long-term vacancy and decay.

For the other major retail nodes including Vineyard Town Center, Morgan Hill Plaza, the Nob Hill Center, and Downtown, the analysis conducted by BAE does not indicate significant economic impacts related to the proposed project. As a result the urban decay and physical deterioration are also not indicated as secondary impacts.

Implementation of the following mitigation measures would ensure the proposed project would have a **less than significant impact** on potential store closures at the Lawrence Oaks and Tennant Station shopping centers.

#### Mitigation Measures

**MM 3.9-4** There is a likelihood of closure for major tenants in the Lawrence Oaks (Home Depot), Tennant Station (Cinelux Theatres), and Cochrane Plaza (Target with the likelihood of other tenants following) If these centers (or others) face vacancies following the opening of the proposed project, the City of Morgan Hill will monitor maintenance of the vacated spaces and their centers for the first signs of disinvestment or deterioration, and require that these properties continue to be maintained to standards as stated in Section 15.56.020 of the Morgan Hill Municipal Code, such that the building will not endanger life, limb, health, property, safety, or welfare of the general public or its occupants. These standards are based on the International Conference of Building Officials "Uniform Code of the Abatement of Dangerous Buildings, 1997 Edition," except where otherwise noted in the Section 15.56.020 of the Morgan Hill Municipal Code. The property shall be maintained in accordance with Morgan Hill Municipal Code Section 8 regarding Health and Safety, including but not limited to keeping premises free of litter, weeds, graffiti, and abandoned vehicles.



- MM 3.9-5** To help small local businesses compete with likely national chain retailers in the proposed project, the City of Morgan Hill will fund programs aimed at assisting locally-owned small retailers. This could take the form of a business seminar sponsored by Target and the project developers to educate local retailers, or other programs geared toward small retail business assistance, such as a kiosk at the Proposed Project providing information on shopping opportunities in Downtown Morgan Hill or other centers. Such a program could be funded by the City of Morgan Hill committing a percentage of the sales tax revenue generated by the Proposed Project.
- MM 3.9-6** City of Morgan Hill will ensure the Target Corporation, the other owners of Cochrane Plaza, and the owners of Tennant Station, Vineyard Town Center, and the Lawrence Oaks Shopping Center are aware that their centers are in the City's Redevelopment Area, and as a result they are eligible to apply for programs administered by the City's Business Assistance Division, including the Facade Improvement Program, Impact Fee Financing Programs, and Business Assistance Guidelines.

Implementation of the above mitigation measures including monitoring of any potential vacated spaces and their centers for the first signs of disinvestments or deterioration; funding of programs aimed at assisting locally-owned small retailers; and ensuring that owners of the shopping centers are aware that their centers are in the City's Redevelopment Area and are eligible for assistance programs would ensure that the proposed project would have a **less than significant** impact on the Lawrence Oaks and Vineyard Town Center shopping centers.

### CUMULATIVE IMPACTS AND MITIGATION MEASURES

#### Conflicts with the Applicable Land Use Plan, Policy, or Regulations

- Impact 3.9-4** The proposed project, combined with other foreseeable projects in the City of Morgan Hill may result in cumulative land use impacts to the project area. This is considered a **less than significant** impact.

The proposed project meets the *City of Morgan Hill General Plan* goals and policies, which seek to encourage retail sales at major intersections, a sub-regional retail use at the northeast freeway interchange, and a variety of commercial uses to meet the needs of city residents. The proposed project would be subject to design review, which will ensure that the proposed project meets the goals and policies in the *City of Morgan Hill General Plan* for high quality commercial development at the northern gateway to the City of Morgan Hill. The proposed project would be consistent with the *City of Morgan Hill General Plan* and zoning provisions applicable to the project site and therefore would result in a less than significant land use impact. In addition, cumulative development would be subject to

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the City's development review process through which any potentially significant land use impacts would be reduced to a **less than significant level**.

#### **Potential for Urban Decay Due to Secondary Cumulative Economic Impacts**

**Impact 3.9-5**      The proposed project, combined with other foreseeable projects in the City of Morgan Hill may result in urban decay due to secondary cumulative land use impacts. This is considered a **less than significant** impact.

The retail market impact analysis (Appendix I) conducted by BAE assessed the impacts of the proposed project in the context of other likely retail developments in the market area or affecting the market area. In Morgan Hill, there are several sites zoned for future retail development, but most are neighborhood centers. The only one besides the proposed project in the development process in the vicinity of the project site is located to the west of U.S. Highway 101 on Cochrane Road at Madrone Parkway, across from Cochrane Plaza. This development involves the rezoning of an eight-acre parcel for a neighborhood commercial center totaling 72,000 square feet. This project is currently not in architectural and site review, but the rezone has been approved has been approved by the City. Current plans call for a number of smaller pads and one 50,000 square-foot store. No tenants are committed to this project at this time. As a neighborhood center, the uses are not likely to compete directly with the planned region-serving uses at the proposed project. A project of uncertainty in Morgan Hill is the expansion of the Cinelux movie theatre which would add three more screens to their existing eight at Tennant Station. This would lead to even more oversaturation of movie screens in Morgan Hill and the Cinema Trade Area, but how this would impact the viability of the existing multiplex and Tennant Station are unclear. It could make it more competitive and lead to lower movie attendance at the proposed project, but also might further erode the profitability of Cinelux's multiplex as it operates more screens but fails to gain enough additional patrons due to the competition from the proposed project. The proposed expansion may add to Cinelux's market share thus discouraging competitors entering the market.

The one under-construction, planned, or proposed development of significance with respect to potential cumulative impacts is the Wal-Mart Supercenter in Gilroy, slated for opening later this year. The addition of a full grocery department to the store will capture supermarket sales going to competitors in Gilroy, Morgan Hill, and elsewhere, with stores in Gilroy bearing the brunt of the impact due to their proximity. The additional sales likely to be captured from Morgan Hill stores in combination with a grocery store at the proposed project would not be likely to lead to closures, as each of the major supermarkets is performing at levels capable of sustaining this level of additional sales loss, assuming the losses are shared somewhat equally. The vacancy created by Wal-Mart's closure of their existing store is another significant retail real estate event related to the opening of the

Supercenter. As an older existing space designed for a certain user, it is unlikely to attract the kinds of prime tenants seeking new space in a center such as the proposed project. However, mitigation measures required as part of the approvals for the Supercenter require the demolition of this space if it is not re-leased within a certain period of time.

BAE research found one other proposed project in Gilroy with a potential region-serving focus, Gilroy Commons, a 117,000 square foot center on slightly over 10 acres adjacent to Gilroy Crossing. According to Gilroy planning staff, one major store in this space will be occupied by an electronics store such as Circuit City, and another potential tenant was a store such as Marshall's or TJ Maxx. The analysis in this report uses the Target Trade Area for these store types, and thus already excludes Gilroy, and assumes that the proposed project will not capture from the Gilroy area. If the proposed project has competitors to the stores in this center, it is assumed already only to capture leakage out of Morgan Hill, and the presence of this new center will not present any new cumulative impacts in combination with the proposed project. This finding is reinforced by the fact that the center is configured as an in-line center rather than with the more pedestrian-oriented lifestyle center design of the proposed project.

In San José, the development currently in process that may result in cumulative impacts is the development at the IBM site of a Lowe's home improvement center in a 222,000 square foot center with other tenants not currently known. This development would make it much less likely that San Jose shoppers would frequent a similar store in Morgan Hill, since most of them would drive by this center to get to Morgan Hill. This development is currently working its way through the EIR process, albeit with some difficulty and controversy due to the potential loss of historic structures at the site. Moreover, the San Jose Lowe's project lies outside the Target Trade Area (used also for the potential home improvement center), and as such would result in little if any additional loss of business (at the Morgan Hill Home Depot), and therefore would result in a **less than significant** cumulative project impact.

#### REFERENCES/DOCUMENTATION

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